

Amendments to the Drawings:

The attached sheet of drawings includes changes to FIG. 1. This sheet replaces the sheet of formal drawings containing FIG. 1. Original FIG. 1 has been amended to correct a typographical error. The axis "X" in FIG. 1 one has been changed to "Y".

Attachment: 1 - Replacement Sheet
1 - Annotated Sheet Showing Changes

Remarks

Reconsideration of this application is requested in view of the following remarks.

The status of the claims is as follows:

Claims 10-19 are pending and rejected.

The examiner has rejected claims 10, 12, 14, and 15 under 35 U.S.C. §102(b) as anticipated by U.S. 4,305,295, Otake, hereafter referred to as "Otake." This rejection is traversed.

Otake does not disclose all elements of the claims as required by 35 U.S.C. §102(b). Initially Figure 1 of Otake that is relied on is a schematic depiction of the device and therefore only generally sets out the relationship of the separator to the condensing unit. There are no specifics of the structure of the device of Otake other than the specifics of the separator device 7. Therefore it is unknown how the tubes within the heat exchanger 1 connect with the outlet tube 5. In any event, Otake does not disclose "the outlet collector being produced as one part in the form of a single piece having a first portion forming a flow converger and a second portion forming a nozzle that is joined to said flow converger" The examiner refers to element 7 as the outlet collector. Clearly element 7 is the separator device and is not the outlet collector. The outlet collector in Otake is not numbered and is at the intersection of elements 1 and 5. There is no disclosure of the structure of this device in Otake. As a result, there is no disclosure of a unitary outlet connector that has both a flow converger and a nozzle as required by claim 10. Further, there is no disclosure of the separation device being within the outlet collector as set out in claim 10. Clearly from the schematic Figure 1 of Otake, the separation device 7 is a separate external device that has been attached to the cylindrical outlet pipe 5 of the exchanger. There is no disclosure of the location of separation device as being within a unitary outlet collector. Because of the schematic nature of the disclosure of Otake, a person of ordinary skill would not consider the device of Otake as inherently having the structure as set out in claim 10. Therefore, reliance on Otake as anticipating claims 10, 12, 14, and 15 is unwarranted and should be withdrawn.

The examiner has also rejected claims 11, 13, 16, and 17 under 35 U.S.C. §103(a) as unpatentable in view of Otake. This rejection is traversed.

As noted above, Otake fails to disclose either specifically or inherently the structure of claim 10. Because the device of Otake is designed in the traditional manner similar to U.S. 4,283,807 as discussed in the present specification, Otake has similar disadvantages that have been remedied by the present claimed invention. Namely, the present invention can be located in situations that could not accommodate an exchanger as disclosed in Otake. The location of the ball separator device exterior of the outlet collector and beneath the heat exchanger limits the placement of the exchanger. In addition, the present device has a compact design and can be fit within a space that previously would not have been suitable for a heat exchanger that included a cleaning unit. The disclosure of Otake no way suggests to one of ordinary skill that a one piece outlet collector that has a separating device internal to the outlet collect would be either possible or successful. Because claim 10 is not either anticipated by or obvious in view of the disclosure of Otake, it follows that the claims dependant on claim 10 also should be patentable. Therefore, claims 11, 13, 16, and 17 are not properly rejected based on Otake and this rejection should be withdrawn.

The examiner has also rejected claims 18, and 19 under 35 U.S.C. §103(a) as unpatentable over Otake in view of U.S. 4,385,660, Kohler, hereafter "Kohler." This rejection is traversed.


Because as noted above, since Otake does not disclose the structure of claim 10, the citation of Kohler does not remove the inherent deficiency of disclosure of Otake. Further, because claim 10 must be considered patentable and claims 18 and 19 are dependent on claim 10, it follows that these claims also must be patentable.

Because all claims are patentable in view of the cited documents, an early indication of allowability is requested.

Respectfully submitted,

McCracken & Frank LLP

October 28, 2008

By: 
J. William Frank, III
Reg. No. 25,626

311 S. Wacker
Suite 2500
Chicago, Illinois 60606
Tel. / (312) 263-4700
Fax (312) 263-3990

Customer No.: 29471

